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Law and Parliamentary Affairs Secretariat

Notification No. LAW 61 LGN 77,
Bangalore, dated 1st April 1978

Ordered that the Karnataka Radio and Electrical Manufacturing Company (Acquisition of Shares) Act, 1978 which received the assent of the President on the First day of April 1978 be published as Karnataka Act No. 5 of 1978 in the *Karnataka Gazette* for general information.

KARNATAKA ACT No. 5 OF 1978

(*First published in the* Karnataka Gazette *Extraordinary on the First day of April,* 1978)

THE KARNATAKA RADIO AND ELECTRICAL MANUFACTURING COMPANY (ACQUISITION OF SHARES) ACT 1978.

(*Received the assent of the President on the first day of April,* 1978)

An Act to provide for the acquisition of shares of the Radio and Electrical Manufacturing Company.

Whereas for various reasons the Radio and Electrical Manufacturing Company has been incurring losses continuously, but the goods produced by the said company are vital to the needs of the country and it is necessary to secure the continuity and development of production of the said goods ;

Whereas investment of large amounts of money is necessary for the maintenance and development of production of the company ;

Whereas acquisition by the State Government of an effective control over the affairs of the company in public interest is necessary to enable it to make the investment aforesaid ;

Be it enacted by the Karnataka State Legislature in the Twenty-ninth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. ***Short title and commencement.*****—(1) This Act may be called the Karnataka Radio and Electrical Manufacturing Company (Acquisition of Shares) Act, 1978.**

(2) It shall be deemed to have come into force on the thirteenth day of October, 1977.

2. *Definitions.*—In this Act, unless the context otherwise requires.—

(a) "appointed day" means the date of commencement of this Act;

(b) "bank" means a banking company within the meaning of the Banking Regulation Act, 1949;

(c) "company" means the Radio and Electrical Manufacturing Company Limited, being a Company within the meaning of the Companies Act, 1956, and having its registered office at Bangalore;

(d) "Commissioner" means the Commissioner of Payments appointed under section 5;

(e) "Government" means the State Government;

(f) "share" means a share in the capital of the company and includes a share pledged by any shareholder with any bank or other creditor;

(g) "shareholder" means—

(i) a person who, immediately before the appointed day; was registered by the Company as the holder of any share and includes his legal representative; or

(ii) a person who, before the appointed day, had lodged with the Company a proper instrument of transfer of any share in the form prescribed under section 108 of the Companies Act, 1956 (Central Act 1 of 1956) and executed in accordance with the provisions of that section; or

(iii) a person who claims under a proper instrument of transfer of any share in the form prescribed under section 108 of the Companies Act, 1956 (Central Act 1 of 1956), which was executed before the appointed day and delivers such instrument to the Commissioner on or before such date as the Government may, by notification, specify in this behalf.

(h) "specified date" means such date as the Government may, for the purpose of any provision of this Act, by notification, specify.

CHAPTER II

ACQUISITION OF THE SHARES OF THE COMPANY

3. *Transfer and vesting of shares of the company in the Government.*—(1) On the appointed day, all the shares of the company except those held by the Government the Karnataka State Industrial Investment Development Corporation and the Bharath Heavy Electrical Limited, shall, by virtue of this Act stand transferred to, and vest in the Government.

(2) The Government shall be deemed, on and from the appointed day, to have been registered in the Register of members of the company as the holder of each share which stands transferred to, and vested in it, by virtue of the provisions of sub-section (1).

(3) All the shares which have vested in the Government under sub-section (1), shall, by force of such vesting, be freed and discharged of all trusts, liabilities, obligations, mortgages, charges, liens and other encumbrances affecting them, and any attachment, injunction, decree or order of any court. tribunal or other authority restricting the use of such shares in any manner shall be deemed to have been withdrawn.

(4) For the removal of doubts, it is hereby declared that the provisions of sub-sections (1) and (2) shall not be deemed to affect,—

(a) any right of the company, subsisting immediately before the appointed day, against any shareholder to recover from such shareholder any sum of money on the ground that the shareholder has not paid or credited to the company the whole or any part of the value of the shares held by him, on any other ground whatsoever ; or

(b) any right of the shareholder subsisting, immediately before the appointed day, against the company to receive any dividend or other payment due from the company.

4. *Payment of amount.*—(1) For the transfer to, and vesting in, the Government under section 3. of the shares

of the company, there shall be given by the Government to the shareholders of the company and other interested persons, in cash, and in the manner specified in section 6, an amount of rupees three per share.

(2) The amount referred to in sub-section (1) shall carry simple interest at the rate of four per cent per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Government to the Commissioner.

5. *Appointment of Commissioner of Payments.*—(1) The Government shall, for the purpose of disbursing the amounts payable under section 4, by notification, appoint a Commissioner of Payments.

(2) The Government may appoint such other persons as it may think fit to assit the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect, as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section, shall be defrayed out of the Consolidated Fund of the State.

6. *Payment by the Government to the Commissioner.*—(1) The Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the shareholders of the Company and other interested persons,—

(*a*) an amount equal to the amount payable under sub-section (1) of section 4; and

(b) an amount equal to the amount determined under sub-section (2) of section 4.

(2) A deposit account shall be opened by the Government in favour of the Commissioner in the public account of the State and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the shareholders of the Company and other interested persons.

7. *Claims to be made to the Commissioner.*—Every person interested in and having a claim, in relation to any share acquired by this Act, either as holder of such share or as holder of any encumbrance or charge over such share immediately before the appointed day, shall prefer such claim before the Commissioner within thirty days from the specified date indicating the nature of his interest in such share :

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

8. *Examination of claims.*—On receipt of the claims made under section 7, the Commissioner shall examine the claims in relation to each share.

9. *Admission or rejection of claims.*—(1) After examining the claims. the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim.

(2) Not less than fourteen days notice of the date so fixed shall be given by advertisement in one issue of a

daily newspaper in the English language and one issue of a daily newspaper in the Kannada language having wide circulation and every such notice shall call upon the claimant to file the proof of his claim with the commissioner within the time specified in the advertisement.

(3) Every claimant, who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursement made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary, and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, determine the nature and extent of such claims and admit or reject the claim in whole or in part. The Commissioner shall also decide any dispute as to the person or persons who are entitled to the amount and any dispute as to who are the legal representatives of any deceased claimant.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge, of his functions, and shall, for the purpose of making an investigation under this Act have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any witness and examining him on oath ;

(b) the discovery and production of any document ;

(c) the reception of evidence on affidavits ;

(d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the

purposes of section 345 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the district court within the local limits of whose jurisdiction the registered office of the company is situate.

10. *Disbursement of the amount by the Commissioner to the claimants.*—(1) After admitting a claim under this Act the amount due in respect of each share acquired by virtue of this Act shall be paid by the Commissioner at the rate of rupees three per share to the person or persons to whom such sums are due and on such payment, the liability of the Government in respect of the shares so acquired shall stand discharged.

(2) The Commissioner shall also apportion amongst the claimants the amount paid to him by way of interest under sub-section (3) of section 6 and such apportionment shall be made on the basis of the amount due to each claimant.

11. *Undisbursed or unclaimed amount to be deposited to the general revenue account.*—Any amount paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the first day on which the disbursement was made, shall be transferred by the Commissioner to the general revenue account of the Government ; but a claim to any amount so transferred may be preferred to the Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of revenue.

12. *Power of inspection.*—For the purposes of ascertaining whether any person claiming payment under this Act is entitled thereto the Commissioner shall have the right to,—

(a) require any person, having the possession, custody or control of any register or record of the company, to produce such register or record before the Commissioner;

(b) require any person to make any statement or furnish any information which may be required by the Commissioner.

13. *Transfer of the acquired shares.*—The Government shall, consistent with the provisions of the Companies Act, 1956, as soon as may be, after the vesting of the shares under Section 3 transfer the shares so vested in favour of Government Companies as defined under section 617 of the Companies Act, 1956 or Corporations owned wholly by the State or Central Government.

CHAPTER III

MISCELLANEOUS

14. *Act to have overriding effect.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any law or instrument having effect by virtue of any law, other than this Act.

15. *Penalties.*—If any person,—

(a) makes any claim for payment under this Act knowing or having reason to believe that such claim is false or without any basis; or

(b) when required under this Act so to do,—

(i) omits or fails to produce any register or record the Company; or

(ii) makes any statement or furnishes any information which is false in any material particular and which he knows or believes to be false or does not believe to be true; or

(c) makes any such statement as aforesaid in any book account, record, register, return or other document.

he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend two thousand rupees, or with both.

16. *Offences by companies.*– (1) Where an offence under this Act has been committed by a company every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals ; and

(b) "director" in relation to a firm, means a partner in the firm.

17. *Cognizance of offences.*—No court shall take cognizance of an offence punishable under this Act except with the previous sanction of the Government or of officer authorised by it in this behalf.

18. *Power to make rules.*—(1) The Government may by notification, make rules to carry out the purposes of this Act.

(2) Every rule made by the Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

20. *Repeal of Karnataka Ordinance No.* 11 *of* 1977.—(1) The Karnataka Radio and Electrical Manufacturing Company (Acquisition of Shares) Ordinance, 1977 (Karnataka Ordinance, No. 11 of 1977) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

By Order and in the name of the Governor of Karnataka,

K. R. CHAMAYYA,
Draftsman and Ex-Officio
Joint Secretary to Government,
Department of Law and Parliamentary Affairs.

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